REMARKS

STATUS OF CLAIMS

Claims 1-70 are pending. Claims 1, 27, and 55 stand rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement; claims 1-4, 6-7, 9-16, 18-21, 23-26, 28-31, 33-34, 36-43, 45-48, 50-53, 55-57, 59, 61-62 and 64 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Jamtgaard et al. (US Patent No. 6,430,624 B1); claims 5, 17, 22, 27, 32, 44, 49, and 54 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jamtgaard et al. in view of Didier Martin, Adapting Content for VoiceXML; and claims 8 and 35 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Jamtgaard in view of Phone.com, Press Release: GVC Licenses Phone.com.

EXAMINER DECREED ELECTIONS/RESTRICTIONS

Applicant respectfully points out that the Examiner-decreed elections/restrictions with respect to previously presented Dependent Claims 58, 60, 63, and 65 were/are inappropriate and unsupported by Examiner's logic. Applicant also states that he finds the elections/restrictions puzzling since during Examiner's previous interview with Applicant it was Applicant's understanding that Examiner would examine claims such as Applicant-submitted Claims 66-70 with an eye toward allowance. However, notwithstanding the foregoing, Applicant has paid for examination and respectfully requests that Examiner perform the examination for which Applicant has paid the PTO fees.

Examiner has stated

> "2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
> I. Claims 1-57, 59, 61-62, 64 are, drawn to a method/system for detecting a wireless device capability including detecting wireless device type, classified in class 709, subclass 220.
> II. Claims 58, 60, 63, 65-70, drawn to a method and system for detecting a wireless-device response aggregation event, classified in class 709, subclass 207...
> 3. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claims for patentabilty, and (2) that the subcombination has utility by itself or in other combinations ..... In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination has separate utility as a method/system for detecting wireless device capability with the features of

invention II. The subcombination has separate utility as a method/system for detecting a response aggregation event upon messages without the features of invention I.

4. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

5. Newly submitted claims 58, 60, 63, 65-70 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: see paragraphs 2-4 above."

Applicant respectfully points out that previously presented **claims 58, 60, 63, and 65** which Examiner had elected to place in Group II, were **dependent claims** from either **Claim 1 or 28**, which Examiner has placed in **Group I**. Specifically, Applicant points out that previously presented Claims 58, 60; and 63, 65 were respectively sub-recitations on the "detecting a wireless-device" recitations of Independent Claims 1 and 28 (**see preambular "detecting a wireless-device" recitations of Intermediate Dependent Claims 56 and 61**), and thus **constituted specific non-exhaustive examples of the "detecting a wireless-device" recitations of Independent Claims 1 and 28**. This is in **complete opposition** to the **Examiner's statement** that "the combination as claimed does not require the particulars of the subcombination as claimed **because the combination has separate utility as a method/system for detecting wireless device capability** with the features of invention II" because, such claims, as recited were specific examples the specific phrasing identified by Examiner. **Hence, Examiner's restriction on this point was inappropriate and even unsupported by Examiner's own logic/statements, and hence Applicant respectfully requests that said restriction(s) be withdrawn.**

Notwithstanding the foregoing, Applicant respectfully points out that the statute identified by Examiner, **35 U.S.C. § 121, expressly states** that "if two or more **independent and distinct** inventions are claimed in one application, the Director may require the application to be restricted to one of the inventions." **Claims 58, 60; and 63, 65** are respectively **dependent claims of Independent Claims 1 and 28** through intermediate Dependent Claims 56 and 61. Hence, restriction of Dependent Claims 58, 60; and 63, 65 from their respective Independent Claims 1 and 28 is improper in light of the statutory requirement that the restricted claims be independent of the claims from which they are to be restricted. **Hence, Examiner's restriction on this point was inappropriate and in opposition to the restriction statute, and thus Applicant respectfully requests that said restriction(s) be withdrawn.**

35 U.S.C. § 112 (FAILURE TO COMPLY WITH WRITTEN DESCRIPTION REQUIREMENT) REJECTIONS

With respect to Independent Claims 1, 28, and 55 the Examiner has stated, "the amendments to claim language filed by applicant on November 10, 2005 introduces new matter. The new matter is specifically, the 'steps/means for detecting a wireless-device.' There is no direct correlation to the amended language and applicant's specification, as further evidenced by applicant failing to cite where the specification supports this amendment." *See Examiner's Office Action* p. 4 (26 January 2006).

Applicant respectfully disagrees with Examiner. As set forth in Applicant's previous interview summary, during the interview Applicant and Examiner specifically discussed the amendments referred to by Examiner, and at that time Examiner appeared to understand the support. Specifically, support for the now-rejected amendments appears throughout in the incorporated-by-reference provisional patent application 60/282,381, and specifically within pages 6 and 7 a courtesy copy of which has been attached for Examiner (Applicant respectfully points out that a copy of this provisional was supplied to Examiner in Applicant's last response). In addition, Applicant respectfully points out that support for the amendments would be understood by one skilled in the art at the time of filing as appearing in at least Figures 1, 2, 3, etc. as well as their supporting text, of Applicant's as-filed detailed description, especially as buttressed by the afore-mentioned incorporated by reference provisional patent application.

In light of the foregoing, Applicant respectfully asks that Examiner withdraw her written description rejections. Should Examiner disagree with Applicant regarding the foregoing Applicant respectfully requests a courtesy call from Examiner.

CLAIM REJECTIONS

I. Claim 1 and its Dependent Claims 2-27, 56-60; Claim 28 and its Dependent Claims 29-54, 61-65; and Claim 55

A. Independent Claims 1, 28, and 55

Examiner has rejected Independent Claims 1, 28, and 55 "under 35 U.S.C. § 102(e) as being anticipated by Jamtgaard et al. USPN 6,430,624 B1." *See Examiner's Office Action* p. 4 (26 January 2006).

In response to Examiner, Applicant has herein amended Independent Claims 1, 28, and 55 to recite "response aggregation" recitations that were previously-present in herein-cancelled dependent claims 58 and 63.

Insofar as that Examiner has not identified any objectively verifiable teachings that show the "response aggregation" recitations of Independent Claims 1, 28, and 55. As is well-known to Examiner, in the absence of objectively verifiable teachings to modify and/or combine the art of record to reach an Applicant's claims at issue, no prima facie case of unpatentability has been established. Accordingly, Applicant respectfully requests that Examiner hold Independent Claims 1, 28, and 55 patentable over the art of record.

B. Dependent Claims 2-27, 56-60; 29-54, 61-65

Claims 2-27, 56-60 depend either directly or indirectly from Independent Claim 1. Claims 29-54, 61-65 depend either directly or indirectly from Independent Claim 28. "A claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers." *See* 35 U.S.C. § 112 paragraph 4. Consequently, Dependent Claims 2-27, 56-60 are not rendered unpatentable by the art of record for at least the reasons why Independent Claim 1 is not rendered unpatentable by the art of record, and Dependent Claims 29-54, 61-65 are not rendered unpatentable by the art of record for at least the reasons why Independent Claim 28 is not rendered unpatentable by the art of record. Accordingly, Applicant respectfully requests that Examiner hold
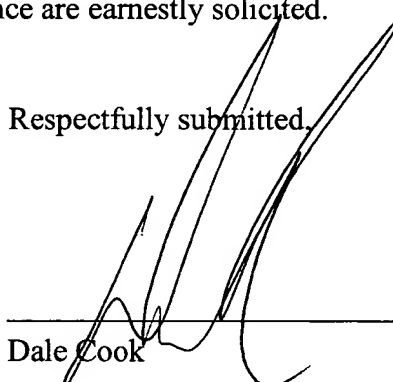
Dependent Claims 2-27, 56-60; 29-54, 61-65 patentable over the art of record for at least the foregoing reasons.

Insofar as that the Applicant has herein amended/cancelled claims, Applicant has not herein explicitly exhaustively addressed the rejections and/or statements in Examiner's Office Action. The fact that the rejections and/or statements are not herein explicitly addressed should NOT be taken as an admission of any sort, and Applicant hereby reserves any and all rights to contest such rejections and/or statements at a later time. Specifically, no waiver (legal, factual, or otherwise), implicit or explicit, is hereby intended (e.g., with respect to those facts of which Examiner took Official Notice Applicant hereby contests those facts and requests express documentary proof of such facts at such time at which such facts may become relevant). Furthermore, although not expressly set forth herein, Applicant continues to assert all still-viable points of any previous Office Action, and no waiver (legal, factual, or otherwise), implicit or explicit, is hereby intended.

If the undersigned attorney has overlooked a relevant teaching in any of the references, the Examiner is requested to point out specifically where such teaching may be found. The Examiner is encouraged to contact the undersigned by telephone (425) 467-2260 to discuss the above and any other distinctions between the claims and the applied references, if desired. If the Examiner notes any informalities in the claims, she is encouraged to contact Mr. Cook by telephone to expediently correct such informalities.

All of the claims remaining in the application are now clearly allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,

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DRC:jmb

Enclosures:
    Postcard
    Check
    Petition for One Month Extension of Time (+ 2 copies)
    Copies of pages 6 & 7 of Provisional Application 60/282,381

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http://isf_share/shared documents/Patents Filed-Active Drafts/Data Architecture-003/0805-003-002-SEED Wireless Device Detection/OA Response.doc

Sender Creates a Managed Message

Mechanics of the Managed Messaging System

The Sender can initiate a Managed Message from any wireless device that has Internet connectivity. The following are the types of devices that are supported today, but can be expanded to support new device types as they become available (through the separation of data and presentation logic).

1. WML_UP – UP.Browser (available on most US cellular phones)
2. RIM – WAP mini-browser
3. Windows CE – Pocket PC device (HTML)
4. Palm Operating System – Palm Query Application (PQA)
5. Desktop PC - HTML

For simplicity, this discussion will assume the user has a WAP digital phone with a WML_UP type mini-browser. The other device types would follow very similar processes. The Sender can initiate a Managed Message by first entering the URL of the MMP web site into the browser. In this case, we will assume the example of www.frmmp.com. This is entered into the browser and when submitted the user will be transferred via the wireless carrier network to the appropriate Proxy server (WAP server) for that particular wireless service carrier. Please see Figure 2 – Sender process of creating a new Managed Message.
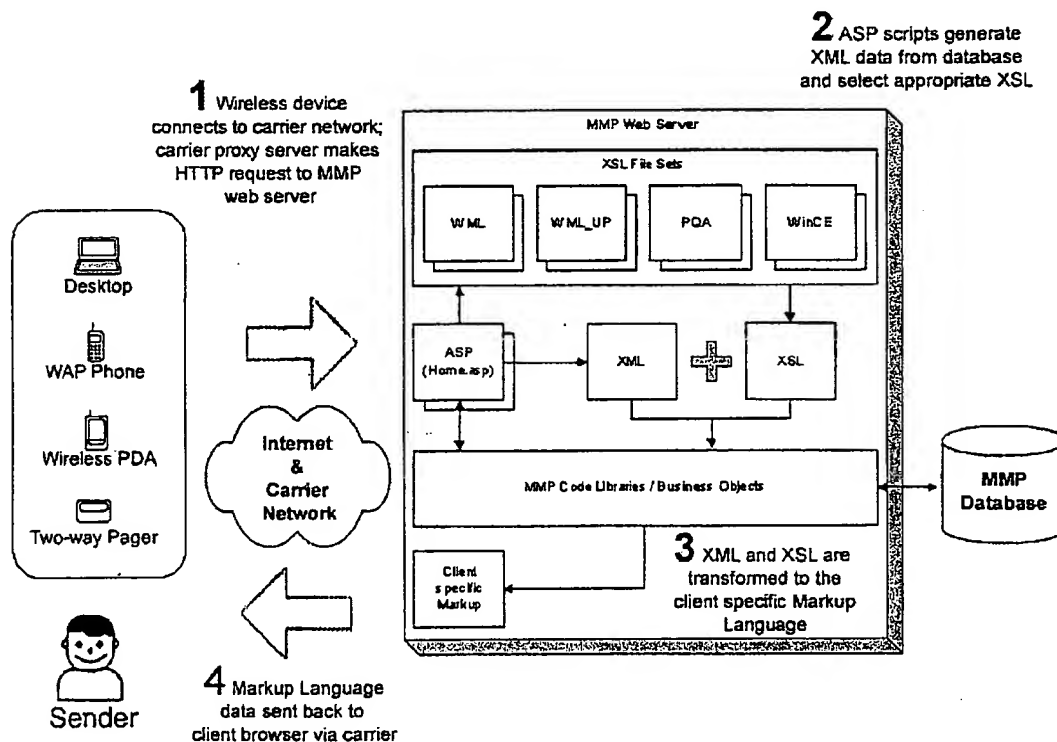
Figure 2 – Sender process of creating a new Managed Message

After the URL is submitted and transferred via the wireless carrier to the Proxy or WAP server, the Proxy server makes an HTTP request to the www.frmmp.com web server. Included within the message header in the HTTP request is the information that tells the web servers which type of browser the Sender is using, in this case a WML_UP browser. Within our web server the requested ASP page is executed; unless specified, by default this would be the "home.asp" page so the Sender can first log into the site.

ASP
The MMP web site is based on ASP pages, which are files that contain server-side script code that are processed on the web server (as opposed to the user's device also known as the client). The script code in these pages dynamically generates the information for the client as a result of its request. The login sequence is generated containing requests for a user name and password. Subsequent requests might generate any sort of data exchange including data gathering, data presentation for the client or executing requests for action by the client. Common Script code shared by various ASP pages are grouped into a set of common code libraries and business objects.
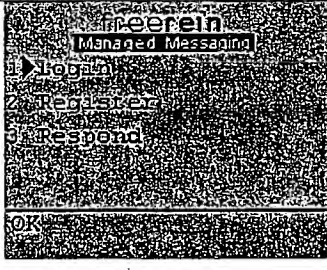
XML and XSL Transformations
Each ASP page generates XML data specific for that page. XSL transformations are the mechanism by which XML data is translated to any particular formats that are supported by a wireless device. The 'home.asp' page calls upon common code libraries and business objects for particular instructions pertaining to the functionality found on that particular page; XML data is generated by the ASP page, and an appropriate XSL file is chosen for the client browser. The XML data is transformed using the chosen XSL file into a usable format for the client's browser to view. In this case, WML (specific for the UP.Browser) is returned to the client via the Proxy server.

How a Sender Uses the System
In our example above, the Sender submits a URL that delivers him to the frmmp.com site on the 'home.asp' page. From here, the user will log in using one of two methods:

1. Email address
2. Phone number

For each login name or phone number, there is a unique password defined by the user upon registration that is required each time they log in. Once the user has logged in, they are taken to the Message Center. Refer to the following screen shots that describe the login process.

When the user browses to the web site, the home page may look like this with options to Login, Register, and a quick way to Respond to the most recent message received.

On some other implementation, there are additional options like a Quick Tour, Preview Graphic Cards, and Tell-A-Friend features